19

Department of Law Revenue

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STATION Bombay

Rev No. 150

Dated 8/2/1922

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(SUBJECT.)

Suits (S. Kanara) Udipi Dt. Munsiff- Deceased Linmaya Shetti, Nonpayment of rent by Mayin - Escheated property. Usages - Institution sanctioned

Ref.No.3567/Rev/19. South Kahara Collector's Office,
Mangalore, 12th January 1922.

From

A422

R. H. Ellis, Esquire, I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue, Madras.

******(H)

B.P.No. 357, Miscellaneous, dated 30th March 1921.

Suits (South Kanara) - Udipi District Munsiff - Majur deceased Ummaya Shetty - Escheated property - Institution.

p 39 E
BP 1410 12/11/20

As reported in para 6 of my predecessor's letter --- dated 23rd October 1920, I held further enquiry as to the - correctness of the vaidegeni tenant Shiddu Shetty's state- ment that he had paid all rents up to 1918-19 in Court. -- From the certified copies of the decree in O.S.No.433/17 and E.P.1086/19 of the Udipi Munsiff's Court which I obtained - from the District Judge, I find that Muddanna Shetty to whom the deceased had assigned the right of collecting rents, - had claimed Rs.309-14-2, being the vaidegeni rent with ---- interest for the years 1911-12 to 1916-17. The suit, was, however, compromised and a decree was passed by the Court in terms of the compromise directing Shiddu Shetty to pay to the plaintiff Rs.187/- by 31-12-1917 or Rs.200/-, if the payment is to be made after that date. The amount was not paid and in the execution which was taken by Muddanna Shetty the decree amount of Rs.200/- was paid by Shiddu Shetty --- together with Rs.9-11-0 for costs of the execution on ----- 27-9-1919. It is thus clear that Shiddu Shetty paid rents only up to 1916-17 and not till 1918-19 as contended by him. I had this explained to Shiddu Shetty with a view to see -- whether he would consent to pay rents from 1918-19. He -- refuses to pay more than three years' rent. I accordingly propose to file a suit against him for the recovery of the

arrears of rent from 1917-18 and request that the enclosed -- draft plaint prepared by the Vakil usually employed on behalf of Government at Udipi and scrutinised by Government Pleader, Mangalore, may be approved.

2/ As regards the other lessee, Muddanna Shetty alias --- Mudara Shetty, the Board has in its proceedings referred to -- above, approved my proposal to collect the arrears from him --- only from 1917-18. According to his lease deed he has to pay besides rice, 2,000 sheaves of straw and three head-loads of vegetables valued at Rs.17-8-0 annually. He states that he - has used the straw for the deceased's house, vegetables for the Mahalaya festival and had contributed to the various ceremonies observed by his father and had also spent Rs.100/- for his --- father's funeral ceremonies. The Government Pleader, Mangalore, is of opinion that with the exception of the claim for funeral ceremonies none of them can be allowed. I, therefore, propose to deduct the expenses of funeral ceremonies from the rent to be claimed from him. I further propose to give up the claim for straw and vegetables as even private parties do so while claiming arrears of rent. Although the lessee is willing to pay - rent from 1917-18 he says that he has effected improvements of the value of Rs.200/- and that this amount should be deducted from the rent to be paid by him. The vaidegeni lease is to - expire only in 1935. As under the lease the lessee is entitled to improvements only on the expiry of the period of the lease the entire amount of rent due from him has to be recovered now. I have accordingly enclosed for Board's approval draft plaint for the recovery of the amount from him with interest.,

P Shamiah Iyer 16.1.22

For Collector.

16/1/22 16-1-22

IN THE COURT OF THE DISTRICT MUNSIFF OF UDIPI.

O.S.No. /192Z.

Between:

The Right Honourable the Secretary of State for India in Council, represented by the Collector of South Kanara. ... Plaintiff.

And

Majurmane Siddya Shetty. ... Defendant.

Plaint under Section 26, Order VII, Rule 1 of C.P.C. The plaintiff aforesaid begs to state as follows:-

1. That the plaintiff is the Right Honourable the ---- Secretary of State for India in Council and is represented by the Collector of South Kanara at Mangalore. The above is the address of the plaintiff for service of processes.

II. That the defendant Siddaya Shetty, is son of Kanajar Mahalinga Heggade, Nadavar and resides at Majoor village, - Balasavara Magane, Udipi Taluk.

III. Subject matter of the suit.

1. That the immoveable properties specified herebelow - belonged to one Majur Ummayya Shetty who was governed by -- Aliyasantana Law and who died heirless on 28-7-1917. The said properties now belong to the Government by right of -- escheat.

2. The plaint property is enjoyed by the defendant on Term lease under the terms of a registered term lease ----- executed by the deceased Ummayya Shetty in favour of the -- defendant on 1-6-1905.

3, Under the terms of the said lease defendant is ----- liable to pay the lessor every year a rent of Rs.44/- in .- cash payable within the 30th of Phalguna Bahula of the ---- rental year.

4. Defendant has not paid to plaintiff the rents payable by him to plaintiff for the years Pingala onwards.

5. The term lease makes the defendant liable to pay the plaintiff interest on arrears of rent at 6¼% per annum from

date of default.

6. As defendant has failed to pay plaintiff, the plaint --- claimed rents and interest inspite of demands, the plaintiff is compelled and entitled to file this suit against the defendant for the following necessary reliefs. Defendant is given deduction for the assessment, paid by him for the plaint holding S for the plaint years out of the plaint-mentioned rents.

7. That the cause of action for this suit for arrears of - rent for the years Pingala, Kalayukti, Siddarthi and Rowdri -- arose respectively on 11-4-18. 31-3-19. 20-3-20 and 8-4-21 at Majoor village within the local limits of this Court.

IV. That the total value of reliefs claimed in this suit is Rs.140-2-2 for purposes of court fees. The same is the value for purposes of jurisdiction.

V. Plaintiff, in conclusion prays for a judgment and decree in his favour granting him the following sums and reliefs.

(a) Directing defendant to pay plaintiff both personally and as ejman of his family Rs.140-2-2 details of which are given in the schedule annexed to this plaint. This relief is valued - at Rs.140-2-2.

(b) Directing defendant to pay plaintiff interest at 6¼% -- per annum on the principal sum of Rs.140-2-2 from date of ---- plaint till date of payment.

(c) Directing defendant to pay plaintiff the costs of this suit.

(d) Granting plaintiff such other and further reliefs as -- under the circumstances the Court thinks the plaintiff is entitled to get from the defendant.

Schedile I.

Description of the property.

Registration. District.	Sub District.	Taluk.	Village.	S.No.	Sub-division No.	Description.	Extent	Assessmen
							Acs. Rs.As.	
South Kanara.		Udipi.	Udipi.	Majur.	13. 71.	14. 4. 9.	Wet. Do. Garden.	1-18.8-13- 1.43.2-14- 0.19.0-6-0

Schedule II.

Pa iculars of the rent claimed in the plaint.

Year ending.	Rent in cash.	Assessment with cesses.	Net rentals.	Interest thereon at 6¼% till date of plaint (28-2-22).	Total of columns 4 & 5.
11-4-1918.	44-0-0.	13-7-0.	30-9-0	7-5-5.	37-14-5.
31-3-1919.	44-0-0.	13-7-0	30-9-0.	5-6-10.	35-15-10.
20-3-1920.	44-0-0.	13-7-0.	30-9-0.	3-8-3.	34-1-3.
8-4-1921.	44-0-0.	13-7-0.	30-9-0.	1-9-8.	32-2-8.
Total.	176-0-0.	53-12-0.	122-4-0.	17-14-2.	140-2-2.

South Kanara Collector's Office,
Mangalore, 13th January 1922.

For Collector.

IN THE COURT OF THE DISTRICT MUNSIFF OF UDIPI

O.S.No._____
1921.

Between

The Right Honourable the Secretary of State for India in Council represented by the Collector of South Kanara. ... ... Plaintiff.

AND

Muddanna Shetty alias Mudara Shetty Defendant.

Plaint under section 26, Order VII, Rule 1 of C.P.C

The Plaintiff aforesaid begs to state as follows:

I. That the Plaintiff is the Right Honourable the Secretary of State for India in Council represented by the Collector of South Kanara, at Mangalore. The above is the address of the Plaintiff for service of processes.

II. That the Defendant Muddanna Shetty alias Mudara Shetty is the grand nephew of Pilar Santur Ramaya Shetty and son of Majur Ummaya Shetty and resides at Majur village, Balisavara Magane, Udipi Taluk.

III. Subject matter of the suit.

(1) That the immoveable properties specified herebelow belonged to one Majur Ummayya Shetty who was governed by Aliyasantana Law and who died heirless on 28-7-17. The said properties now belong to the Government by virtue and right of escheat which has been duly declared.

(2) The plaint property is enjoyed by the Defendant on term lease under the terms of a registered Term Lease executed by the deceased Ummayya Shetty in favour of the Defendant his son on 1-6-1905.

(3) Under the terms of the said Term Lease, Defendant is liable to pay the lessor every year a rent of 16 Kaide muras of Kuchige rice and 2,000 sheaves of straw and three head loads of vegetables worth 8 annas each and the rent is payable within the 30th of Phalguna Bahula of the rental year. If default is made by the Defendant in payment of rents on the due dates, Defendant is liable to pay holi at one mura per 4 muras of rice and interest at 12% per

annum on the value of the other rental under the terms of the plaint lease, straw being valued at Rs.8/- per thousand under the provisions of the Term Lease.

(4) Defendant has not paid to Plaintiff the rents payable by him for the years Pingala onwards inspite of demands. He is however, given deduction for the assessment paid by him for Rs.100/- spent by him for his father's funeral ceremonies. The Plaintiff also waives the right to collect straw and vegetables.

(5) Hence this suit by the Plaintiff against the Defendant for the following necessary reliefs.

(6) That the cause of action for this suit for arrears of rent for Pingala to Rowdri arose on 11-4-18, 31-3-19 20-3-20 and 8-4-21 at Majoor village within the local limits of this court.

IV. That the total value of the reliefs claimed in this suit is Rs.595-14-4 for court fees as well as for court's jurisdiction.

V. Plaintiff in conclusion prays for a decree in his favour granting him the following reliefs and sums.

(a) Directing Defendant to pay Plaintiff both personally and as ejman of his family Rs.595-14-4, details of which are given in the plaint schedule with interest at 12% and (holi at the plaint rate on the principal -- amount of the rental) from date of plaint till date of payment. This relief is valued at Rs. 595-14-4.

(b) Directing Defendant to pay Plaintiff the full costs of this suit.

(c) Granting Plaintiff such other and further relief as the court deems fit under the circumstances of the case.

Schedule I

Description of the property

Registration.									
District	Sub district.	Taluk.	Village	S. no.	Sub div. Number	Description	Extent	Assessment	
1	2.	3	4	5	6	7	8	9	
							A.C.	Rs. A. P.	
South Kanara	Udipi.	Udipi.	Majur	9	1	Wet	0-78	4-14-0	
					2	— do —	1-87	9-6-0	
					7	Garden	0-29	1-3-0	
				10	2	Dry.	0-17	0-3-0	

Schedule II

Particulars of rent Claimed in the plaint.

year ending	Rent in Kind	Price of rice per mura	Value of rice at the rate in Col. 3.	Assessment with Cesses.	Net rentals	Holi at 1 mura per every 4 muras	Price at the rate in Col. 3.	Total of Columns 6 and 8.
1	2	3.	4	5	6	7	8	9
	muras.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	muras	Rs. A. P.	Rs. A. P.
11-4-18.	16	6-7-0.	103-0-0	17-4-5	85-11-7	16.	103-0-0	188-11-7
31-3-19.	16	7-0-0	112-0-0	17-4-5	94-11-7	12 muras.	84-0-0	178-11-7
20-3-20	16	8-4-0	132-0-0	17-4-5	114-11-7	8	66-0-0	180-11-7
8-4-21	16	8-4-0	132-0-0	17-4-5	114-11-7	4	33-0-0	147-11-7
Total	64 muras.		479-0-0	69-1-8	409-14-4	40 28 muras. 72	286-0-0	695-14-4
Deduct the amount spent by the Defendant for his father's funeral ceremonies.								100-0-0.
								595-14-4

D. Mambrai
19.1.22
For Collector

19.1.22

A 422/22 ——— 4

Suits (S. Kanara) Udipi Dt. Munsiff — Deceased Lemmayya Shetty — Mangin — Escheated property — Payment of rent by lessees — Institution Sanctioned

Rs. Rs 150

The Board Sanction the institution of suits and approves the draft plaints

2. In view of Art 110 of the Limitation Act the Board doubts whether Govt are entitled to Claim the rents which fell due on 11.4.18. as they appear to be time barred in both the cases the Claim in respect of them may be given up if the defendants consent to pay the balance.

To the Collector Sikanara

Note

p24. (1) 3 headloads of vegetables are valued at 17-8- annually. But in p6 para 3 of the plaint each is said to be worth As 8 each. The discrepancy is not explained. Probably Rs 17-8- is the value of 2000 sheaves of straw as well.

(2) The value of straw and vegetables need not be pressed as recommended by the Colr.

(3) Under the ordinary Hindu Law funeral expenses are a legitimate charge on a deceased's property — but it is difficult to see why a lessee should be allowed to deduct the amount so spent out of the rent reserved to Govt except as a matter of equity. Perhaps Govt need not enforce their claim

(4) In both the plaints the amounts of rent due which fell due on 11.4.18 appear time barred under Art 110 of the Limitation Act. the period within which arrears are to be claimed being 3 yrs. If the parties agree to pay up the remainder no suits will perhaps be nece. It is however not likely that the lessee Muthanna Chetty will agree. He is stated to be claiming a deduction of Rs 200 on account of improvements, wh. the Colr. says are not allowable.

This may be furnished with the plaints

To Jail

Para 2 is for approval